

ATTACHMENT M

SECTION 8: Performance Evaluation Meetings

A. Regular Evaluation Meetings. The City and the Franchisee hereunder shall hold performance evaluation meetings within thirty (30) days following the third, fifth, tenth, and fourteenth anniversary dates of the Franchisee's acceptance of the franchise. All such evaluation meetings shall be open to the public. Such meetings shall be called and noticed pursuant to Article VI, Section 3 (Notice to the Franchisee) of the Cable Communications Ordinance.

B. Special Evaluation Meetings. Special evaluation meetings may be held at any time during the term of this Agreement at the request of either the City or the Franchisee, upon fourteen (14) days written notice to the other party.

C. Elements of Evaluation. Topics which may be discussed at any regular or special evaluation meeting may include, but need not be limited to, subscriber and user rate structures, franchise fees, penalties, free or discounted services, applications of new technologies, system performance, services provided, programming offered, subscriber, user and community complaints, privacy, amendments to the Cable Communications Ordinance, modifications to this Agreement, judicial and FCC rulings, line extension policies and Franchisee or City rules and regulations.

D. Franchisee Cooperation. The Franchisee shall fully cooperate with the City in all matters relating to any regular

or special evaluation pursuant to this Section and shall, at the Franchisee's expense, provide such information, data, and documents as the City may reasonably request in connection with any such evaluation.

E. City Right to Require Special Tests. If at any time during any regular or special evaluation pursuant to this Section, the City determines that reasonable evidence exists of inadequate cable system performance, it may require the Franchisee, at the Franchisee's expense, to perform tests and analyses by a registered professional engineer, directed toward the identified or suspected inadequacies. The Franchisee shall fully cooperate with the City in scheduling and performing such testing and shall prepare and present a written report setting forth and interpreting the results of such testing within thirty (30) days after receiving notice from the City that such testing will be required. Such report shall include at least the following information:

1. Identification and qualifications of the person performing the tests;
2. The nature of the identified or suspected inadequacy which precipitated the special tests;
3. What system components were tested;
4. The equipment used and procedures employed in testing;
5. The results, and an analysis and interpretation of the results, of the tests and, in particular, data and information tending to confirm and identify the source of, or to negate the existence of, the identified or suspected inadequacy;
6. The method, if any, by which any such identified system inadequacy has been, or will be rectified;
7. Recommendations, if any, for additional action; and
8. Any other information pertinent to said tests and analyses which may be required or useful.

The City may require the test to be supervised, at the Franchisee's expense, but not to exceed \$10,000, by a professional engineer approved by the City and not on the permanent staff of the Franchisee. When so required, such engineer shall sign all test reports and records and forward the same directly to the City.

SECTION 15: Books and Records

A. Ownership Records. The Franchisee shall, (1) within thirty (30) days after the date of this Agreement, and (2) at least annually thereafter, and (3) within thirty (30) days following the change of ownership of three (3) percent or more of any class or series of the outstanding voting stock or equivalent ownership interest of the Franchisee, furnish the City with a list, showing the names and addresses of persons owning three (3) percent or more of any class or series of the outstanding voting stock or equivalent ownership interest of the Franchisee, together with a roster of the Franchisee's officers and directors (or equivalent managerial personnel) and their addresses.

B. Financial Records. The Franchisee shall maintain books and records of its operations within and related to the City in

accordance with generally accepted accounting principles consistently applied, and in sufficient detail to show the following: (1) gross revenues, by service category; (2) operating expenses, by service category, categorized by general and administrative expenses, technical expenses, and programming expenses, and, where applicable, overhead expenses; (3) capital expenditures, by service category, including capitalized interest and overhead, if any; and (4) depreciation expense, by service category.

The Franchisee shall annually, within one hundred and twenty (120) days following the close of its fiscal year, prepare in accordance with generally accepted accounting principles and submit to the City income statements and balance sheets for the fiscal year just ended as follows: (1) an income statement and balance sheet reflecting the operation of the cable communications system in the City; and (2) an income statement and balance sheet, audited by an independent certified public accountant acceptable to the City, reflecting the operation of the cable communications system in the City.

Upon request by the City, the Franchisee shall, simultaneously with the submission of the above required annual income statements and balance sheets, provide to the City audited income statements and balance sheets for the fiscal year just ended as follows: (1) an income statement and balance sheet reflecting the operation of the subscriber system in the City; and (2) an income statement and balance sheet reflecting the operation of the institutional loop in the City; provided that such request shall not be made by the City more frequently than once during the first five years of the term of this Agreement and once during the second five years of the term of this Agreement.

All books, records and statements of the Franchisee's operations in and relating to the City shall be maintained separately from any other operations; provided, however, that any items of revenue, expense or capital which apply both to the Franchisee's operations in and relating to the City and to other operations shall be reasonably allocated between all such operations consistent with generally accepted accounting principles. Such books and records shall be retained, in any reasonable form, for a period of not less than ten (10) years, or three (3) years beyond the termination of this Agreement or any renewal thereof, whichever is shorter.

C. Operating Records. The Franchisee shall maintain reasonable records pertaining to such matters as system performance, system testing, system use, system programming and any other records specifically required to be maintained by the Cable Communications Ordinance or this Agreement. Unless otherwise required by the Cable Communications Ordinance or this Agreement, such records shall be retained at least until the next scheduled performance meeting required under Section 8

(Performance Evaluation Meetings) of this Agreement.

D. City Access to Records. The books and records of the Franchisee's operation within the City required to be maintained pursuant to this Section shall be made available in the Franchisee's local office at St. Charles, Illinois, for inspection and audit by the City at any time during normal business hours upon reasonable request.

E. Franchisee Forms, Policies, Rules and Similar Documents. Copies of the Franchisee's schedule of charges, standard contracts and standard application forms for subscriber and user services, policies regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures, cable system rules and regulations and any other terms and conditions adopted as the Franchisee's policy in connection with its subscribers or users, and such other information as reasonably may be required by the City, shall be filed with the City and shall be made available for inspection by the public at the Franchisee's local office at St. Charles, Illinois, during normal business hours.